

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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HOME LOAN INVESTMENT BANK, F.S.B.
formerly known as Ocean Bank, F.S.B.,

Plaintiff,

-against-

ORDER

11 CV 1107 (DRH) (AKT)

LEMANS PROPERTIES, LLC, LEMANS
INDUSTRIES CORP., GLENN W. MANDLER,
BOARD OF MANAGERS OF HEISSER
INDUSTRIAL PLAZA CONDOMINIUM, and
JOHN DOES NOS. 1-100

Defendants.

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HURLEY, Senior District Judge:

On July 26, 2011, this Court granted plaintiff's motion for an entry of default judgment against defendants Lemans Properties, LLC, Lemans Industries Corp., (collectively, "Lemans"), Glenn W. Mandler, and Board of Managers of Heisser Industrial Plaza Condominium, and referred the case to Magistrate Judge A. Kathleen Tomlinson, pursuant to 28 U.S.C. § 636(b)(3), for a report and recommendation as to damages and attorneys' fees. On March 2, 2012, Judge Tomlinson issued a Report and Recommendation recommending that judgment be entered against Lemans and Mandler¹ for the following amounts: (1) \$364,890.37, which was the principal amount of the defaulted loan; (2) \$1,337.70 in late fees; (3) interest at a rate of \$59.98 per diem from October 31, 2010 until the entry of judgment; (4) \$16,831.60 in attorneys' fees and costs; and (5) \$4,655.00 in miscellaneous fees. Judge Tomlinson further recommended that

¹ In the Report and Recommendation, Judge Tomlinson "assume[d] Plaintiff is not seeking any damages from" defendant Board of Managers of Heisser Industrial Plaza Condominium, because plaintiff "fail[ed] to submit any documentation or explanation of amounts owed by Heisser." (R&R at 5 n.3.)

the properties at issue be “foreclosed and sold with the proceeds to be applied to the amount owed on the Note, including the miscellaneous and attorney’s fees” (R&R at 16-17.) On March 8, 2012, defendants were served with a copy of the Report and Recommendation. More than fourteen days have elapsed since service of the Report and Recommendation. No party has filed any objections.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the Report and Recommendation for clear error, and finding none, now concurs in both its reasoning and its result. Accordingly, the Court adopts the March 2, 2012 Report and Recommendation of Judge Tomlinson as if set forth herein.

The Court hereby directs that plaintiff recover from Lemans Properties, LLC, Lemans Industries Corp., and Glenn W. Mandler the following amounts, and that judgment be entered accordingly, with post-judgment interest to be calculated pursuant to 28 U.S.C. § 1961(a):

- (1) \$364,890.37 in principal;
- (2) \$1,337.70 in late fees;
- (3) interest at a rate of \$59.98 per diem from October 31, 2010 until the entry of judgment;
- (4) \$16,831.60 in attorneys’ fees and costs; and
- (5) \$4,655.00 in miscellaneous fees.

The Court will enter a Judgement of Foreclosure and Sale contemporaneously with this Order.

Upon entry of judgment, the Clerk of the Court is directed to close this case.

SO ORDERED.

Dated: Central Islip, New York
March 26, 2012

/s/

Denis R. Hurley
United States District Judge